

## SENATE BILL No. 562

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-46-3-12.5; IC 35-50-2-2.

**Synopsis:** Killing domestic animals. Makes murdering a domestic animal a nonsuspendible Class D felony unless the killing was necessary to prevent injury to a person, protect property, or prevent a seriously injured domestic animal from prolonged suffering.

**Effective:** July 1, 2005.

### Antich-Carr

January 20, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 562

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 35-46-3-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12.5. (a) As used in this section, "domestic animal" means a member of the:**

- (1) bovine;
- (2) equine;
- (3) ovine;
- (4) caprine;
- (5) porcine;
- (6) canine; or
- (7) feline;

**species that is not wild.**

**(b) A person who knowingly or intentionally murders a domestic animal commits unlawful animal killing, a Class D felony.**

**(c) It is a defense to a prosecution under this section that the person reasonably believed the conduct was necessary to:**

- (1) prevent injury to a person;**



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- 1           **(2) protect property from destruction or substantial damage;**  
 2           **or**  
 3           **(3) prevent a seriously injured domestic animal from**  
 4           **prolonged suffering.**

5           SECTION 2. IC 35-50-2-2 IS AMENDED TO READ AS  
 6           FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The court may  
 7           suspend any part of a sentence for a felony, except as provided in this  
 8           section or in section 2.1 of this chapter.

9           (b) With respect to the following crimes listed in this subsection, the  
 10          court may suspend only that part of the sentence that is in excess of the  
 11          minimum sentence, unless the court has approved placement of the  
 12          offender in a forensic diversion program under IC 11-12-3.7:

13          (1) The crime committed was a Class A or Class B felony and the  
 14          person has a prior unrelated felony conviction.

15          (2) The crime committed was a Class C felony and less than seven  
 16          (7) years have elapsed between the date the person was  
 17          discharged from probation, imprisonment, or parole, whichever  
 18          is later, for a prior unrelated felony conviction and the date the  
 19          person committed the Class C felony for which the person is  
 20          being sentenced.

21          (3) The crime committed was a Class D felony and less than three  
 22          (3) years have elapsed between the date the person was  
 23          discharged from probation, imprisonment, or parole, whichever  
 24          is later, for a prior unrelated felony conviction and the date the  
 25          person committed the Class D felony for which the person is  
 26          being sentenced. However, the court may suspend the minimum  
 27          sentence for the crime only if the court orders home detention  
 28          under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum  
 29          sentence specified for the crime under this chapter.

30          (4) The felony committed was:

31               (A) murder (IC 35-42-1-1);

32               (B) battery (IC 35-42-2-1) with a deadly weapon or battery  
 33               causing death;

34               (C) sexual battery (IC 35-42-4-8) with a deadly weapon;

35               (D) kidnapping (IC 35-42-3-2);

36               (E) confinement (IC 35-42-3-3) with a deadly weapon;

37               (F) rape (IC 35-42-4-1) as a Class A felony;

38               (G) criminal deviate conduct (IC 35-42-4-2) as a Class A  
 39               felony;

40               (H) child molesting (IC 35-42-4-3) as a Class A or Class B  
 41               felony;

42               (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or

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- 1 with a deadly weapon;
- 2 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
- 3 injury;
- 4 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
- 5 or with a deadly weapon;
- 6 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
- 7 weapon;
- 8 (M) escape (IC 35-44-3-5) with a deadly weapon;
- 9 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 10 (O) dealing in cocaine, a narcotic drug, or methamphetamine
- 11 (IC 35-48-4-1) if the court finds the person possessed a firearm
- 12 (as defined in IC 35-47-1-5) at the time of the offense, or the
- 13 person delivered or intended to deliver to a person under
- 14 eighteen (18) years of age at least three (3) years junior to the
- 15 person and was on a school bus or within one thousand (1,000)
- 16 feet of:
- 17 (i) school property;
- 18 (ii) a public park;
- 19 (iii) a family housing complex; or
- 20 (iv) a youth program center;
- 21 (P) dealing in a schedule I, II, or III controlled substance
- 22 (IC 35-48-4-2) if the court finds the person possessed a firearm
- 23 (as defined in IC 35-47-1-5) at the time of the offense, or the
- 24 person delivered or intended to deliver to a person under
- 25 eighteen (18) years of age at least three (3) years junior to the
- 26 person and was on a school bus or within one thousand (1,000)
- 27 feet of:
- 28 (i) school property;
- 29 (ii) a public park;
- 30 (iii) a family housing complex; or
- 31 (iv) a youth program center;
- 32 (Q) an offense under IC 9-30-5 (operating a vehicle while
- 33 intoxicated) and the person who committed the offense has
- 34 accumulated at least two (2) prior unrelated convictions under
- 35 IC 9-30-5;
- 36 (R) an offense under IC 9-30-5-5 (operating a vehicle while
- 37 intoxicated causing death) if the person had:
- 38 (i) at least fifteen-hundredths (0.15) gram of alcohol per one
- 39 hundred (100) milliliters of the person's blood, or at least
- 40 fifteen-hundredths (0.15) gram of alcohol per two hundred
- 41 ten (210) liters of the person's breath; or
- 42 (ii) a controlled substance listed in schedule I or II of

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1 IC 35-48-2 or its metabolite in the person's blood; or  
 2 (S) aggravated battery (IC 35-42-2-1.5); or  
 3 **(T) unlawful animal killing (IC 35-46-3-12.5).**

4 (c) Except as provided in subsection (e), whenever the court  
 5 suspends a sentence for a felony, it shall place the person on probation  
 6 under IC 35-38-2 for a fixed period to end not later than the date that  
 7 the maximum sentence that may be imposed for the felony will expire.

8 (d) The minimum sentence for a person convicted of voluntary  
 9 manslaughter may not be suspended unless the court finds at the  
 10 sentencing hearing that the crime was not committed by means of a  
 11 deadly weapon.

12 (e) Whenever the court suspends that part of an offender's (as  
 13 defined in IC 5-2-12-4) sentence that is suspendible under subsection  
 14 (b), the court shall place the offender on probation under IC 35-38-2 for  
 15 not more than ten (10) years.

16 (f) An additional term of imprisonment imposed under  
 17 IC 35-50-2-11 may not be suspended.

18 (g) A term of imprisonment imposed under IC 35-47-10-6 or  
 19 IC 35-47-10-7 may not be suspended if the commission of the offense  
 20 was knowing or intentional.

21 (h) A term of imprisonment imposed for an offense under  
 22 IC 35-48-4-6(b)(1)(B) may not be suspended.

23 **SECTION 3. [EFFECTIVE JULY 1, 2005] IC 35-46-3-12.5, as**  
 24 **added by this act, applies only to crimes committed after June 30,**  
 25 **2005.**

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